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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/014,195	11/13/2001	Srinivas Gutta	US010575	3005
24737 7590 05/01/2007 PHILIPS INTELLECTUAL PROPERTY & STANDARDS P.O. BOX 3001 BRIARCLIFF MANOR, NY 10510			EXAMINER ALVAREZ, RAQUEL	
			ART UNIT 3622	PAPER NUMBER
			MAIL DATE 05/01/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/014,195	GUTTA ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Raquel Alvarez	3622	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 16 February 2007.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-33 is/are pending in the application.
- 4a) Of the above claim(s) 10-17, 19 and 25-33 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-9, 18, 20-24 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### DETAILED ACTION

1. This office action is in response to communication filed on 2/16/2007.
2. Claims 1-9, 18, 20-24 are presented for examination.

#### **Claim Rejections - 35 USC § 102**

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1-4, 6, 7-9, 18 and 20-21 are rejected under 35 U.S.C. 102(e) as being anticipated by Linden et al. (6,266,649 hereinafter Linden).

With respect to claims 1-4, 7-9, 18, 20, 21, Linden teaches a method for setting up a user profile indicating preferences of a user, comprising executing the following operations in a data processing device (i.e. the items preferred by the user is saved in a user's database)(Figure 5, item 192); partitioning said third party selection history, indicating items that are selected by at least one third party, into clusters of items(i.e. the items are placed into different categories or labels , such as non-fiction, Jazz, comedy, etc. (col. 14, lines 15-34); said clusters being determined based on typical patterns of items selected by representative third-party users, said items being similar (col. 14, lines 15-34); wherein items in a respective one of said clusters has a distance measure closer to a mean of said cluster than to a mean of remaining ones of said

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clusters (see Figure 5); setting up said user profile with items from said at least one selected cluster (database 38).

With respect to claim 6, Linden further teaches that the user profile indicates viewing preferences of said user (col. 5, lines 37-42).

**Claim Rejections - 35 USC § 103**

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 5, 22-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Linden.

Claim 5 further recites employing a k-means clustering routine. Official notice is taken that it is old and well known to employ a means routine because such a modification would provide a midway position or average value. It would have been obvious to a person of ordinary skill in the art at the time of Applicant's invention to have included employing a k-means clustering routine in order to obtain the above mentioned advantage.

Claims 22-24 further recite weighting items from the user's own selection more heavily than items from third party selection history. Official notice is taken that it is old and well known to give more weight to a person's purchase history than the profile of other users. For example, couples without children are assumed to buy more wine or the like based on previous purchase history of other couples but if a particular couple is not consuming wine or the like then they will not receive a wine coupon. It would have been obvious to a person of ordinary skill in the art at the time of Applicant's invention to have included weighting items from the user's own selection more heavily than items from third party selection history in order to better target the user based on their likes/dislikes.

### **Response to Arguments**

5. Applicant argues that Linden doesn't teach that items in a respective one of said clusters has a distance measure closer to a mean of said cluster than to a mean of remaining ones of said clusters. Applicant is concentrating on one particular embodiment of Linden and overlooking other embodiments of teachings of the Linden reference. Linden teaches in step **188** the resulting list is sorted from highest-to-lowest score. The effect of the sorting operation is to place the most relevant items at the top of the list. In step 190, the list is filtered by deleting any items that (1) have already been purchased or rated by the user, (2) have a negative score, or (3) do not fall within the designated product group (e.g., books) or category (e.g., "science fiction," or "jazz") and recommend top M item from list (see Figure 5). As can be seen

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from above, the items from a group that are closer to a cluster or group of items are recommended over others that have negative scores or lower scores.

6. Applicant argues that Linden doesn't teach forming the third party user information into clusters independent of a user input. The Examiner disagrees with Applicant because before a new user has given his recommendations or input to the system, the grouping or clustering of items are based on other users of the system who have previously given their input and therefore those users are third party to the new user requesting a recommendation.

7. Applicant argues that Linden doesn't teach that items in the clusters have a relationship to the means of the clusters. The Examiner disagrees with Applicant because a "fiction" cluster will be more distant to a "non-fiction" cluster than to "comedy" cluster.

8. In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., the k-means procedure algorithm) are not recited in the rejected claim(s).

Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

### **Conclusion**

9. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

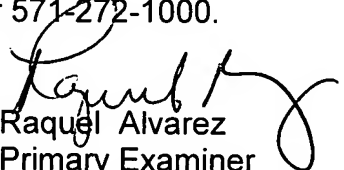
**Point of contact**

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Raquel Alvarez whose telephone number is (571)272-6715. The examiner can normally be reached on 9:00-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eric w. Stamber can be reached on (571)272-6724. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Raquel Alvarez  
Primary Examiner  
Art Unit 3622

R.A.

4/20/2007